



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,043	09/26/2006	Fritz Krause	85934.000055	8089
23387	7590	02/08/2010		
Stephen B. Salai, Esq. Harter Secrest & Emery LLP 1600 Bausch & Lomb Place Rochester, NY 14604-2711			EXAMINER REDMAN, JERRY E	
			ART UNIT 3634	PAPER NUMBER
			NOTIFICATION DATE 02/08/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

bsalai@hselaw.com  
coffen@hselaw.com

# Office Action Summary

## Application No.

10/550,043

## Applicant(s)

KRAUSE, FRITZ

## Examiner

Jerry Redman

## Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/220)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

The applicant's arguments dated 1/19/2010 have been considered and a new non-final action is herein attached below.

The status of the claims is as follows:

Claims 1-26 (14-26 newly added) are herein addressed below.

Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phraseology "preferably", found throughout the claims, is indefinite and fails to positively recite the claimed invention. The phraseology "and/or" is indefinite and fails to positively recite the claimed invention.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-8, 10-14, 16-21, and 23-26 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Mesnel (4,470,223) in view of Schroder et al. (4,809,463). As shown in Figures 3-6, Mesnel (4,470,223) discloses a one piece (column 2, lines 13-18) elastomeric weather seal comprising two U-shaped reinforced metal core mounting elements (two parallel sides and a middle portion, i.e., a connecting brace as recited in the patent) attached to a door frame, hollow sealing lips

(shown in figure 6 but replaceable with any of the sealing lips in the embodiments, column 2, lines 37-38), flocking on the hollow sealing lips, flocking on a bottom portion forming the channel for guiding a window pane, and retaining lips projecting from the U-shaped reinforced mounting elements. Mesnel (4,470,223) fails to disclose an integral one-piece elastomeric weather seal. As shown in Figure 2, Schroder et al. (4,809,463) discloses a one-piece elastomeric weather seal attached to a vehicle. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the weather seal of Mesnel ('223) to be an integral one-piece elastomeric weather seal as taught by Schroder et al. (4,809,463) since an integral one-piece weather seal is cheaper to manufacture and easier to attach to a vehicle since there is only a single element. [note: Although the figures and specification of Mesnel ('223) are not clear in whether the weather seal is a single integral piece or separate pieces, a 35 U.S.C 103 rejection with Schroder et al. (4,809,463) shows that integral vs. separate is not patentable]

Claims 2 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mesnel ('223) and Schroder et al. (4,809,463) as applied to claim 1 and further in view of Herr (3,333,364). All of the elements of the instant invention are discussed in detail above except providing a hollow seal along a bottom/base portion. Herr ('364) discloses a weather seal having a base portion (2) with a hollow portion (33). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the modified weather seal of Mesnel ('223) with a hollow sealing portion along the

bottom/base portion as taught by Herr ('364) since the bottom portion having a hollow sealing element enhances the sealing characteristics of the weather seal thereby improving the seal between the window pane and the door frame.

Claims 9 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mesnel ('223) and Schroder et al. (4,809,463) as applied to claim 7 above and further in view of Patent application publication no. 2003/0019160 to Oda et al. All of the elements of the instant invention are discussed in detail above except providing a hollow sealing element divided by a web. Patent application publication no. 2003/0019160 to Oda et al. disclose a weather strip having a hollow sealing element (30) having a web projecting from a U-shaped mount of a weather strip. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the modified weather strip of Mesnel ('223) with a hollow seal with a web as taught by Patent application publication no. 2003/0019160 to Oda et al. since a hollow seal portion having a web increases the sealing characteristics between the weather strip and the frame since the hollow portion allows flexibility and the web provides rigidity to the hollow portion.

Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Redman whose telephone number is 571-272-6835. The examiner can normally be reached on M-TH from 8 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Mitchell, can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jerry Redman  
Primary Examiner  
Art Unit 3634

/Jerry Redman/  
Primary Examiner, Art Unit 3634